

REMARKS

In regard to the Examiner's rejection of claims 1 and 2 under 35 U.S.C. 102(b) as being anticipated by Chase, the rejection of claims 1-6 and 8-10 under 35 U.S.C. 103(a) as being unpatentable over England et al., ('165) in view of Chase, the rejection of claim 7 under 35 U.S.C. 103(a) as being unpatentable over England et al., ('165) in view of Chase in further view of Ludwick, the rejection of claims 1-6 and 8 under 35 U.S.C. 103(a) as being unpatentable over Dimmick in view of Chase and Tate ('999), the rejection of claim 7 under 35 U.S.C. 103(a) as being unpatentable over Dimmick in view of Chase and Tate ('999) and Ludwick, the rejection of claim 9 under 35 U.S.C. 103(a) as being unpatentable over Dimmick in view of Chase and Tate ('999) and Tate ('889), , the rejection of claim 9 under 35 U.S.C. 103(a) as being unpatentable over Chase in view of Tate ('889), the rejection of claims 1-5, 7, and 8 under the judicially created doctrine of obviousness-type double patenting over claims 1-7 of U.S. Patent No. 6,820,282 in view of Chase, and the rejection of claims 6, 9, and 10 under the judicially created doctrine of obviousness-type double patenting over claims 1-7 of U.S. Patent No. 6,820,282 in view of Chase and England et al., ('165), Applicants submit that their invention, as now claimed, is new and non-obvious in light of the prior art.

Specifically, with regard to the rejection of claims 1 and 2 under 35 U.S.C. 102(b) as being anticipated by Chase, the Chase device fails to disclose a wing extension that is located on an outer periphery of the base member, which wing extension attaches to an inner surface of the hat while the base member protrudes through an opening on the hat, which opening has a diameter that is at least as great as the diameter of the base member. Further, the Chase device fails to teach a base member having a cavity wherein whenever force is placed onto the marker over the cavity, the marker teeters on the edge of the cavity.

With regard to the rejection of claims 1-6 and 8-10 under 35 U.S.C. 103(a) as being unpatentable over England et al., ('165) in view of Chase, the rejection of claim 7 under 35

U.S.C. 103(a) as being unpatentable over England et al., ('165) in view of Chase in further view of Ludwick, the rejection of claims 1-5, 7, and 8 under the judicially created doctrine of obviousness-type double patenting over claims 1-7 of U.S. Patent No. 6,820,282 in view of Chase, and the rejection of claims 6, 9, and 10 under the judicially created doctrine of obviousness-type double patenting over claims 1-7 of U.S. Patent No. 6,820,282 in view of Chase and England et al., ('165), neither the England '165 patent nor the England '282 patent disclose a base member that has a wing, which wing has an outwardly facing surface (i.e. facing in the same direction as the marker receiving upper surface of the base member) that attaches to the inner surface of a hat. The England '165 patent and the England '282 patent each disclose a base portion that has a wing extension that is sandwiched between an outer layer and an inner layer of a glove closure assembly, which glove closure assembly is attached to the glove proper. No opening is provided in the glove and no direct contact with the wearer's hand and the base portion is possible with the architecture of the England '165 device and the England '282 device. There is a reason for this specific architecture. The glove is worn by a golfer and it is desired that the marker holder not restrict movement of the golfer's hand, Claim 1, last clause and Claim 6 last clause, of the England '282 patent. Interference with the golfer's hand can adversely affect the golfer's shot, therefore, the marker is attached to the golf glove in such fashion so as not to interfere with the golfer's hand movement. This is accomplished by sandwiching the wing extension of the base portion between outer and inner surfaces of the closure assembly with the closure assembly being seated on top of the glove proper, thereby placing at least two layers of material, the inner surface and the glove itself, between the base portion and the hand of the wearer. On the other hand, Applicants' current invention is designed to be worn on the head. As different forces placed upon and generated by the marker system are at play in the current invention, Applicants' had to use inventive creation in order to arrive at the claimed design. As a hat has an altogether different closure system that is typically located at the back of the head when the hat is worn properly and as reaching around to the back is not very comfortable and as typical hat closure systems are very small and cannot easily accommodate a typical ball marker

system, Applicants had to look elsewhere for mounting their marker system onto a hat. While Applicants could have used an upper and lower material sandwich system to hold their marker system (similar to the closure assembly hold system of the England '165 patent and the England '282 patent) and attached this entire assembly to the hat, such an assembly proved cumbersome and reduced the ventilation provided by the hat. Applicants has to chose a different attachment system. Different forces are at play on a person's head relative to a glove-bearing hand during the play of golf and different ventilation requires are also at play, which required Applicants to study such forces and ventilation conditions in order to create their new and non-obvious marker system. Neither the England '165 patent nor the England '282 patent teach nor suggest the particular marker attachment system for a hat, either individually, combined together, or combined with the teachings of Chase and/or Ludwick. The Chase device teaches attachment of a marker having a pointed bottom surface that attaches to a hat via a nipple 10 that protrudes through the material of the hat and has nuts 11 and 12 tightened on opposite sides of the material of the article of clothing. This is far different from Applicants' system that uses a wing that attaches to an outer periphery of a base member such that the outwardly facing surface of the wing member attaches directly to the inner head receiving surface of a hat and the entire base member protrudes through an opening on the hat. The Chase patent fails to disclose a wing extension that is located on an outer periphery of the base member, which wing extension attaches to an inner surface of the hat while the base member protrudes through an opening on the hat, which opening has a diameter that is at least as great as the diameter of the base member. Further, the Chase device fails to teach a base member having a cavity wherein whenever force is placed onto the marker over the cavity, the marker teeters on the edge of the cavity. Therefore, modifying the teachings of either England '165 or England '182 with the teachings of Chase fails to teach or suggest the instant invention as claimed by Applicants. Ludwick fails to add any of the missing teachings.

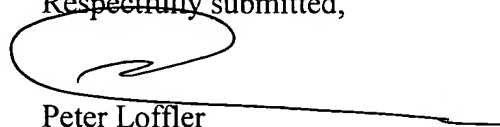
With regard to the rejection of claims 1-6 and 8 under 35 U.S.C. 103(a) as being unpatentable over Dimmick in view of Chase and Tate ('999), the rejection of claim 7 under 35 U.S.C. 103(a) as being unpatentable over Dimmick in view of Chase and Tate ('999) and Ludwick, the rejection of claim 9 under 35 U.S.C. 103(a) as being unpatentable over Dimmick in view of Chase and Tate ('999) and Tate ('889), , the rejection of claim 9 under 35 U.S.C. 103(a) as being unpatentable over Chase in view of Tate ('889), the Dimmick patent teaches a golf club attachment for identification and ball positioning marking. The Dimmick patent is wholly silent as to attachment of a marker to a hat. The Chase device teaches attachment of a marker having a pointed bottom surface that attaches to a hat via a nipple 10 that protrudes through the material of the hat and has nuts 11 and 12 tightened on opposite sides of the material of the article of clothing. This is far different from Applicants' system that uses a wing that attaches to an outer periphery of a base member such that the outwardly facing surface of the wing member attaches directly to the inner head receiving surface of a hat and the entire base member protrudes through an opening on the hat. The Chase patent fails to disclose a wing extension that is located on an outer periphery of the base member, which wing extension attaches to an inner surface of the hat while the base member protrudes through an opening on the hat, which opening has a diameter that is at least as great as the diameter of the base member. Further, the Chase device fails to teach a base member having a cavity wherein whenever force is placed onto the marker over the cavity, the marker teeters on the edge of the cavity. Therefore, combining the Dimmick patent with the teachings of the Chase patent, fails to teach or suggest a ball marker attachment system as claimed by Applicants.

As the remaining cited prior art is only of an incidental nature, it will not be discussed in detail.

Accordingly, Applicant's invention is new and novel with respect to the prior art.

In view of the foregoing remarks and amendments, it is respectfully submitted that this application is now in condition for allowance, therefore an early notice to this effect is courteously solicited.

Respectfully submitted,



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CERTIFICATE OF MAILING

I HEREBY CERTIFY that the foregoing was deposited with the United States Postal Service, First Class Postage prepaid, addressed to the Commissioner of Patents and Trademarks, this 13th day of April, 2005.



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